



Department of Conservation & Recreation

CONSERVING VIRGINIA'S NATURAL AND RECREATIONAL RESOURCES

**FREQUENTLY ASKED QUESTIONS (FAQ)  
LAND-DISTURBING ACTIVITIES UNDERTAKEN BY  
UTILITY, PIPELINE, AND RAILROAD COMPANIES**

***What is a Land-Disturbing Activity?***

Virginia Erosion and Sediment Control Law defines a land-disturbing as “any land change which may result in soil erosion from water or wind and movement of sediments into state waters or onto lands in the Commonwealth, including, but not limited to, clearing, grading, excavating, transporting, and filling of land”. A complete copy of the Law is available from the Virginia Department of Conservation and Recreation (DCR) Central Office or DCR's Erosion and Sediment Control (ESC) Program website. Contact information for the DCR Central and Regional Offices and the ESC website address are listed on Page 4 of this FAQ.

***What Land-Disturbing Activities by Utility, Pipeline, and Railroads Does DCR Regulate?***

DCR solely regulates land-disturbing activities conducted by electric, natural gas, and public utility companies; interstate and intrastate natural gas pipeline companies; and railroad companies (hereinafter, “company”) on all private and public lands in the Commonwealth. The land-disturbing activities include:

1. Construction, installation, or maintenance of electric transmission, natural gas and utility lines, and pipelines.
2. Construction of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of the railroad company.

The land-disturbing activities covered under items 1 and 2, as well as supporting activities that may include staging areas, access roads, and borrow/spoil areas, are regulated by DCR.

***What Activities are Exempt from State and Local ESC Regulation?***

The following activities are exempt from ESC regulation by DCR and the local ESC Program:

- ☐ Any of the activities listed above when less than 10,000 sq. ft. is disturbed (or 2,500 sq. ft.);
- ☐ Individual service connections;
- ☐ Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard surfaced road, street or sidewalk provided the land-disturbing activity is confined to the area of the road, street, or sidewalk that is hard surfaced;
- ☐ Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles; and
- ☐ Repair or rebuilding of the tracks, right-of-way, bridges, communication facilities and other related structures, and facilities of a railroad company.

### ***How Do Companies Comply with the ESC Law and Regulations?***

Companies conducting land-disturbing activities are required to file general erosion and sediment control (ESC) specifications annually with DCR for review and written approval to legally disturb land. ESC specifications should include, at a minimum, a description of all ESC measures and policies that will be implemented on all land-disturbing activities. Specifically, practices must be described (including standard details, symbols) that meet the requirements of the 19 Minimum Standards in Section 4VAC50-30-40 of the Virginia Erosion and Sediment Control Regulations that apply to company activities. Chapter 3 of the *Virginia Erosion and Sediment Control Handbook (1992)* provides descriptive information for 39 standard ESC practices.

Additionally, project-specific information (project start and finish date, location, project contact and Responsible Land Disturber information) must be provided as part of the ESC specifications submittal. Please see the DCR "Virginia Linear Land-Disturbance Guidance for Utility, Pipeline and Railroad Companies". Questions regarding ESC specifications submittal should be directed to the DCR Central Office.

### ***When is a Company Required to Seek ESC Approvals, Permits, etc. from a Local ESC Program?***

All other regulated land-disturbing activities not covered above must comply with the requirements of the local ESC program. For example, the local program would regulate construction of water lines, sanitary sewer, and storm sewer, buildings, facilities, structures, and other activities that do not directly support construction, installation, or maintenance of electric, telephone, or natural gas lines. Requirements of the local program should be requested from the local ESC Program Administrator. Contact information for local officials is available through the appropriate DCR Regional Office.

### ***Are Site-Specific ESC Plans Required?***

DCR approval of individual projects is not necessary when approved ESC specifications are followed. However, the approval of ESC specifications does not eliminate the need for a site-specific ESC plans. All site-specific plans must be consistent with the company's approved ESC specifications. DCR Regional Office staff are available to assist with project planning, plan development, on site implementation, and complaint resolution. The service areas of each regional office are provided on the ESC website.

### ***Do Companies Undertaking Land-Disturbing Activities Have to Comply with More Stringent Requirements Enacted by Virginia Localities?***

Yes. DCR is responsible for ensuring on site compliance with more stringent requirements of local ESC Programs, the most common being the regulation of land-disturbing activities of 2,500 square feet or more in jurisdictions covered by the Chesapeake Bay Preservation Act.

### ***Who is Responsible for Compliance With Approved ESC Specifications and Variances?***

Companies and their agents (contractors, subcontractors, consultants, etc.) must comply with their approved ESC specifications and variances, the Law, and the Regulations when conducting regulated land-disturbing activities, whether these activities are undertaken on their own property or an easement, right-of-way, or other property owned by a separate party. To clarify ESC roles, responsibilities, and obligations associated with on site company compliance prior to initiation of land disturbance, it is highly suggested that property owners/developers address ESC responsibilities at the pre-construction meeting or through inclusion of specific ESC provisions in contracts or agreements that authorize company activity on their property.

### ***Who Is Responsible for ESC When Working Entirely in Rights-of Ways of Roads (VDOT or Locality)?***

Companies and their agents (contractors, subcontractors, consultants, etc.) must have a DCR approved general ESC specifications and must comply with their approved ESC specifications and variances, the Law, and the Regulations when conducting regulated land-disturbing activities, whether these activities are undertaken on their own property or an easement, right-of-way, or the property owned by a separate party. However, installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard surfaced road, street or sidewalk provided the land-disturbing activity is confined to the area of the road, street, or sidewalk that is hard surfaced is exempt.

### ***Who is Responsible for ESC When Working in Utility Easements In New Development?***

The utility and pipeline companies and their agents (contractors, subcontractors, consultants, etc.) who disturb the land within the utility easement are ultimately responsible for controlling erosion and sediment during utility installation and for permanently stabilizing the disturbed utility easement. When utilities share a trench, the company who initiated the land-disturbance is ultimately responsible for ensuring ESC compliance. To clarify ESC roles, responsibilities, obligations and potential redundancy, associated with on site company compliance prior to initiation of land disturbance, it is highly suggested that property owners/developers and the companies address ESC responsibilities at the pre-construction meeting or through inclusion of specific ESC provisions in contracts or agreements that authorize company activity on their property.

### ***Who Inspects Company Activities?***

DCR Regional Office staff periodically inspect company projects from project initiation through final stabilization to ensure compliance with approved ESC specifications and the state program, and in response to major storm events, complaints, and requests for assistance. However, company personnel are encouraged to inspect ESC measures regularly.

### ***Who is Responsible for Enforcing the Provisions of Approved ESC Specifications?***

DCR has been given authority to enforce the provisions of the approved ESC specifications. Suspected violations of ESC specifications and the state program should be immediately reported to the appropriate DCR Regional Office for further investigation.

### ***Is ESC Training Available?***

DCR provides training programs via the DCR website (Responsible Land Disturber Program) and the classroom environment statewide in basic erosion control concepts, project inspection, and plan review. This training is intended to equip government officials, companies, developers, contractors, and consultants with the knowledge and skills to properly implement ESC program requirements. More information regarding DCR's Erosion and Sediment Control Training & Certification Program is available from the DCR Central Office or ESC website.

***For More Information Contact:***

**DCR Erosion and Sediment Control Program Website**

<http://www.dcr.state.va.us/sw/e&s.htm>

**DCR Regional Offices**

**Staunton Regional Office  
Shenandoah Watershed**  
44 Sangers Lane, Suite 102  
Staunton, VA 24401  
(540) 332-9991

**Warrenton Regional Office  
Potomac Watershed**  
98 Alexandria Pike, Suite 33  
Warrenton, VA 20186  
(540) 347-6420

**Clarksville Regional Office  
Roanoke Watershed**  
11632 Highway 15 South  
Clarksville, VA 23927  
(434) 374-3648

**Henrico Regional Office  
James Watershed**  
3800 Stillman Parkway, Suite 102  
Richmond, VA 23233  
(804) 527-4484

**Tappahannock Regional Office  
York/Rappahannock Watershed**  
Post Office Box 1425  
Tappahannock, VA 22560  
(804) 443-6752

**Dublin Regional Office  
New River Watershed**  
Post Office Box 1506  
Dublin, VA 24084  
(540) 643-2590

**Suffolk Regional Office  
Chowan, Albermarle, &  
Coastal Watersheds**  
1548-A Holland Road  
Suffolk, VA 23434  
(757) 925-2468

**Abingdon Regional Office  
Upper Tennessee & Big  
Sandy (UTBS) Watersheds**  
252 W. Main St., Suite 3  
Abingdon, VA 24210  
(276) 676-5529